

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

UNITED STATES OF AMERICA, )  
                                  )  
                                  )  
PLAINTIFF, )  
                                  )  
                                  )  
V.                                  ) **CV-09-BE-2423-E**  
                                  )  
                                  )  
JAMES J. STRICKER, et al., )  
                                  )  
                                  )  
DEFENDANTS. )  
                                  )  
                                  )

**DEFENDANTS AMERICAN INTERNATIONAL  
GROUP, INC.'S AND THE TRAVELERS COMPANIES, INC.'S  
MOTION TO DISMISS COUNTS III AND IV**

Defendants American International Group, Inc. (“AIG”) and The Travelers Companies, Inc. (“Travelers”) (collectively, “Movants”) move this Court, pursuant to Fed. R. Civ. P. 12(b)(6), to dismiss Counts III and IV of the Complaint for failure to state a claim upon which relief can be granted. This Motion is based upon the Complaint, the exhibits attached thereto, and Movants’ Brief in Support of their Motion to Dismiss, which is being filed contemporaneously with this Motion. As discussed more fully in Movant’s brief, Counts III and IV of the Complaint should be dismissed for the following reasons:

1. Neither of the Movants is a proper party to this action as they are holding companies, not insurance companies, and paid no monies to anyone, pursuant to insurance policies or otherwise;

2. Counts III and IV are barred by the statute of limitations; and
3. Counts III and IV lack sufficient factual allegations to state a plausible claim under the Medicare Secondary Payer Act.

For these reasons, Movants respectfully request that this Court grant their Motion to Dismiss.

DATED: May 5, 2010

Respectfully submitted,

/S/ Augusta S. Dowd  
Augusta S. Dowd (ASB-5274-D58A)  
One of the Attorneys for The Travelers  
Companies, Inc. and American International  
Group, Inc.

**OF COUNSEL:**

J. Mark White  
Augusta S. Dowd  
WHITE ARNOLD & DOWD P.C.  
2025 Third Avenue North, Suite 500  
Birmingham, Alabama 35203  
Tel: (205) 323-1888  
Fax: (205) 323-8907  
E-mail: adowd@whitearnoldanddowd.com

/S/ Carol Connor Cohen  
One of the Attorneys for American  
International Group, Inc.

Application for *Pro Hac Vice* Pending

**OF COUNSEL:**

Carol Connor Cohen  
Donald H. Romano  
Caroline Turner English  
Lindsay S.C. Brinton  
ARENT FOX LLP  
1050 Connecticut Avenue, NW  
Washington, DC 20036-5339  
Tel: (202) 857-6000  
Fax: (202) 857-6395

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5th day of May, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Tony West, Esq.  
Joyce White Vance, Esq.  
Richard E. O'Neal, Esq.  
J. Christopher Kohn, Esq.  
Cathy J. Burdett, Esq.  
Ruth A. Harvey, Esq.  
U.S. Department of Justice  
Civil Division  
P. O. Box 875  
Ben Franklin Station  
Washington, D.C. 20044

Vernon L. Wells, II, Esq.  
J. David Moore, Esq.  
Kary B. Wolfe, Esq.  
Walston, Wells & Birchall, LLP  
P. O. Box 830642  
Birmingham, AL 35283

William S. Cox, Esq.  
Keven E. Clark, Esq.  
Wesley B. Gilchrist, Esq.  
Lightfoot, Franklin & White, LLC  
The Clark Building  
400 North 20<sup>th</sup> Street  
Birmingham, AL 35203

George P. Ford, Esq.  
Ford, Howard & Cornett, PC  
P. O. Box 388  
Gadsden, AL 35902

Matthew H. Lembke, Esq.  
Ty E. Dedmon, Esq.  
Andrew L. Brasher, Esq.  
Bradley Arant Boult Cummings, LLP  
1819 5<sup>th</sup> Avenue North  
Birmingham, AL 35203

Charles K. Hamilton, Esq.  
Bruce F. Rogers, Esq.  
Bainbridge, Mims, Rogers & Smith, L.L.P.  
Suite 415 – The Luckie Building  
600 Luckie Drive  
P. O. Box 530996  
Birmingham, AL 35253

J. Gusty Yearout, Esq.  
Yearout & Traylor  
3300 Cahaba Road, Suite 300  
Birmingham, AL 35223

John T. McConkie, Esq.  
P. O. Box 875  
Ben Franklin Station  
Washington, D.C. 20044

M. Todd Lowther, Esq.  
Teresa G. Minor, Esq.  
Balch & Bingham LLP  
1901 Sixth Avenue North  
Birmingham, AL 35203

/s/ Augusta S. Dowd  
OF COUNSEL